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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,895	03/08/2001	Yoshiko Hatano	2257-0176P-SP	6812

2292 7590 07/23/2004

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EXAMINER
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REKSTAD, ERICK J

ART UNIT	PAPER NUMBER
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2613

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DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/800,895

Applicant(s)

HATANO ET AL.

Examiner

Erick Rekstad

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-4, 7-9, 11-13 and 16-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 11 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 7-9, 12, 13 and 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is a final action for application no. 09/800895 in response to the amendment filed May 12, 2004 in which claims 2-4, 7-9, 11-13 and 16-20 are presented for examination.

#### ***Response to Arguments***

Applicant's arguments with respect to claim 2, 5, 6, 9-11, 14, 15, and 18 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 11, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5, 717,641 to Ando et al in view of US Patent 6,289,129 to Chen et al.

[claims 2, 11, 19 and 20]

In Figure 1, Ando teaches the method and device comprising: Coding means for coding an external input signal in a macroblock unit (1); a storing means for storing a code output from said coding means (2); and code volume control means (6) for controlling transfer of said code stored in said storing means to data output means based on a code volume of said code obtained by said coding means such that a length of a video packet constituted by said code is a predetermined length or less (Col 2 Lines

7-26 and 49-67, Col 3 Lines 1-41, Fig. 1). Ando teaches the output of the device going to a receiving circuit in a VIDEO-ON-DEMAND system (Col 1 Lines 15-16, Col 2 Lines 21-26). Ando does not teach the use of a second storing means. It would be obvious to one skilled in the art at the time of the invention that a video receiver would contain an input buffer (Official Notice). It would have been obvious to one skilled in the art at the time of the invention that the buffer of the video receiver would be the second storing means in the system.

Ando further teaches a code volume controller controls storage of a stuffing in said second storing means based on a minimum code volume obtained for each unit image constituted by a video packet which is required for coding said unit image (Col 2 Lines 15-20, Col 3 Lines 5-19 and Lines 42-60, Col 4, Figs 1 and 2A-2C). Note: Col 4 Lines 52-58 where dummy data is added in order to meet the minimum required fixed data rate. Ando teaches a system for maintaining a constant bit rate for a VOD system (Col 1 Lines 10-16 and 58-60). It is well known in the art to use MPEG-2 for VOD systems (Official Notice). It would have been obvious to one of ordinary skill in the art at the time of the invention to use MPEG-2 encoding with the system of Ando, as MPEG-2 is a common encoding format for VOD systems (Official Notice). Ando does not teach the use of VOPs.

Chen teaches a coding device that uses a simulation of the decoding buffer to control the bitstream to prevent overflow and underflow (Col 12 Lines 7-25). Chen further teaches the coding device comprises video data that includes intraframe, prediction and bi-directional video objects planes (VOPS) (Col 13 Lines 40-43). Chen

further teaches the controlling of the bitstream by adding stuffing bits (Col 13 Lines 44-52, Col 14 Lines 7-11). Chen further teaches that the VBV buffer is the reverse of the decoder buffer where a VBV buffer underflow is equivalent to a decoder buffer overflow (Col 11 Lines 49-56). Chen further teaches a coded picture is equivalent to a VOP and MPEG-2 has a constant frame period (Col 7 Lines 36-52. It would have been obvious to one of ordinary skill in the art at the time of the invention that the system of Ando uses VOPs as VOPs are equivalent to coded pictures as taught by Chen.

***Allowable Subject Matter***

Claims 3-4, 7-9, 12-13 and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erick Rekstad whose telephone number is 703-305-5543. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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